STATE OF MAINE
PUBLIC UTILITIES COMMISSION

Docket No. 2003-485

November 18, 2003

FAIRPOINT OF NEW ENGLAND COMPANIES (STANDISH, CHINA, MAINE, SYDNEY AND NORTHLAND)
Implementation of 2002 Amendments to Chapter 204

ORDER APPROVING INCREASES TO LOCAL RATES FOR BSCA EXPANSIONS AND BSCA CALCULATIONS (SUBJECT TO TRACKING)

WELCH, Chairman; DIAMOND and REISHUS Commissioners

I. SUMMARY

In this Order, we approve the proposal filed by the Fairpoint of New England Companies (Standish, China, Maine, Sydney And Northland; hereafter "Fairpoint Companies" or "the Companies") to increase their rates for local service in conjunction with implementation of expansions to their basic service calling areas (BSCAs). These changes take effect on December 15, 2003. The rates and rate changes that will go into effect as a result of this Order are presented in Attachment A.

II. BACKGROUND

On November 4, 2003 (supplemented by a filing on November 6), the Fairpoint Companies filed a proposal (including changes to their rate schedules and terms and conditions) to increase local rates for the purpose of offsetting the expected revenue effects from expansions to the Companies' basic service calling areas. The Companies filed changes on November 6, 2003, resulting in a reduction of projected costs. These rate increases are in addition to rate increases we recently approved in stipulated rate cases that examined the Companies' revenue requirements. *Northland Telephone Company of Maine et al., Proposed Rate Increases*, Docket Nos. 2002-747 et al., Order Approving Stipulation (November 13, 2003. In addition, the companies must reduce their intrastate access rates over the next several months. Pursuant to amended 35-A M.R.S.A. § 7101-B, the absolute deadline is May 31, 2005 for all LECs to reduce intrastate access rates to the interstate rates in effect for that that carrier on January 1, 2003. Under the Stipulation approved in the rate cases, the companies will reduce access rates on in September 2004 and again on May 31, 2005. At the same time, they will increase local rates to offset the access revenue losses.

The BSCA expansions become effective on December 15, 2003. They are required by the November 2002 amendments to Chapter 204. Each exchange will add all contiguous exchanges not presently part of its BSCA. LECs will experience access revenue losses because calls to the contiguous exchanges that are being added to the BSCAs previously were long distance toll calls, but will become local. Thus, all the access revenue associated with those minutes is lost. The local rate increases proposed by the Companies are designed to offset those losses on a revenue-neutral basis. It is difficult to achieve revenue neutrality, however, for the reasons described below.

III. DISCUSSION

In their November 4, 2003 filings, the Fairpoint Companies provided calculations of the BSCA revenue losses (which, as explained below, are known and certain amounts) and estimates (less certain) of revenue gains from local rate changes. The BSCA-related revenue changes include access revenue losses that will occur because calls to the areas that are being added to the Company's BSCAs previously incurred long distance toll charges (and generated access revenues for the Company), but are now local calls.[1] They also include changes in local revenue due to changes in the mix of subscribership to the Premium and Economy options, as well as changes due to the change in the rate (from various per call rates to 5 cents a minute) for economy customers who call outside the flat-rate calling areas of this Economy option but within the BSCA.[2] The Company also included estimates of small amounts of BSCA-related billing system, engineering and administrative costs. As discussed in greater detail below, it is difficult to predict some of these elements.

Chapter 204, § 5(A) states that a LEC that implements new or modified BSCAs may propose rates that will cover its additional costs and net revenue losses that are attributable to those BSCA changes. Section 5(C) requires LECs to "track" revenue effects for a period of at least 12 months. If the LEC's net revenue loss is greater than predicted (i.e., greater than the prediction upon which the rates approved pursuant to Section 5(A) were based), the LEC may request recovery of the shortfall and propose rates that will collect the correct amount of revenue loss. If the LEC's net revenue loss is less than predicted (and included in rates approved pursuant to Section 5(A)), it must return the excess to customers and must propose future rates (or ongoing support) that will collect the correct amount to offset the revenue loss.

For a LEC that provides only access service, but not retail toll, there is no reason for the BSCA tracking account to track lost access and billing and collection (B&C) revenues. Once these amounts are calculated, they never change for ratemaking purposes. The number of minutes and messages (and, therefore, access and B&C revenue) that the Fairpoint Companies will lose as a result of the BSCA expansions is known in advance, by using an appropriate test period.[3]

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[1] The companies have no retail toll revenue; they only provide access to interexchange carriers.

[2] Maine and Standish Telephone Companies have a rate of $.30 per call. Northland has rates of $.25 and $.40, depending on the exchange of the calling customer. Two of the Companies, China and Sydney, presently have no Economy calling option and therefore have no per call rate.

[3] For those LECs (Verizon, Saco River and Pine Tree) that offer retail toll service, it is far more difficult to calculate in advance the revenue effect the loss of all toll traffic to the contiguous exchanges that are being added to BSCAs. The LECs that offer only access have only one set of rates, applicable to all traffic. It is easy to apply those rates to the lost traffic. By contrast, LECs that provide retail toll have a wide variety of rates, including some that are designed for short-haul (but not exclusively contiguous exchange) traffic and that have non-traffic-sensitive charges. It is not possible to determine the exact mix of those rates

The Company has also provided calculations of effects on local revenues. One of those components is the revenue loss from the elimination of the rate of per call rate for calls by Economy option customers to exchanges within the customer's BSCA but outside the flat-rate calling area of the Economy option. That component will be permanently lost. (It is being replaced by a rate of 5 cents per minute.) As in the case of the access revenue loss (described above), it is relatively easy to calculate, and its amount is known in advance. It is not necessary to track these lost revenues.

It is necessary, however, to track the amount of additional local revenue that will offset the known amounts described above. The local replacement revenues include revenues available from the increases to local rates for both the Premium and Economy options and from a new rate of 5 cents per minute for calls by Economy option customers to exchanges within the customer's BSCA but outside the flat-rate calling area of the Economy option (replacing the per-call rate). These revenues cannot be fully predicted because the realized mix of customers subscribing to the Premium and Economy options may differ from predicted levels. Predictions are difficult to make because, ultimately, only customers can determine which of the calling options has greater value to them, and the calling areas available under each option will have changed. It is also difficult to predict revenues that the Company will receive from the new 5 cents per minute rate. The new rate may be more attractive to some customers and less attractive to others than the former per call rate and might even influence customer choice for the two calling options.

The Company shall track the replacement revenues for 12 months and report the results to the Commission on or before March 15, 2005. Because notice of the BSCA changes will be relatively close to the December 15, 2003 implementation date, and many customers may not respond immediately to the calling options contained in the notice, we believe it makes sense for the 12 months of tracking to begin on February 1, 2004. The results shall be compared to the projections used in the November 4, 2003 filings. The Company may experience other changes in sales that may need to be taken into account in any possible revisions following the BSCA tracking period. Therefore, the Companies, on or before March 15, 2005, shall file billing units for all their services, including numbers of access lines and access minutes, for the most recently available period prior to the implementation of BSCA expansion and for each month during the tracking period[4]

Chapter 204, § 5(C) does not expressly require "tracking" of expenses and new investment, or the recovery by the utility or ratepayers of the difference between the estimates embodied in rates (or USF) and actual costs, notwithstanding the fact the Section 5(A) allows a LEC to propose rates (or USF) in advance of implementation that will cover those costs. The November 4 and November 6 filings provided few details in support of their estimates of those costs, and we have not subjected them to close examination. We therefore find that it is reasonable, as a condition of approving the rates pursuant to Section

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for the contiguous toll traffic that is lost, as compared to the mix of those rates for the toll traffic that remains.

[4] A large change in the number of lines will affect revenues, but that revenue change will not be a result of changes in revenues from customers attributable to the BSCA changes. Line data will allow the Commission to calculate a revenue effect per line and thereby filter out effects due to line losses or gains.

5(A) of Chapter 204, that the Company keep records of the actual BSCA-related implementation expenses and investment, and that they provide that information to the Commission when such expenses and investment are completed, but no later than March 15, 2005. Tracking should be for a period that covers all expenses related to BSCA and any changes in investment attributable to the BSCA expansions, but not later than January 31, 2005. Results shall be presented in absolute and annualized forms.

With that information, we may consider whether to order a change in future USF funding to reflect the differences between present estimates and actual costs. We do not decide at this time whether we would order reconciliation for the differences during the tracking period. We note, however, that because the cost changes presently estimated by the Companies are small, if the projections are reasonably accurate, rate changes or reconciliation may be unnecessary. The Companies have proposed a 5-year amortization for expenses. We find that proposal is reasonable. If there is a need to change rates as a result of the tracking, we will determine the appropriate treatment of incremental investment at that time.

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Accordingly, we

1. APPROVE, pursuant to Chapter 204, § 5(A), the local exchange service rates increases proposed by the Fairpoint Companies (Standish Telephone Company, China Telephone Company, Maine Telephone Company, Sydney Telephone Company, and Northland Telephone Company) in this docket;

2. APPROVE the initial calculations by The Fairpoint Companies of expected revenue losses and gains and cost changes as a result of BSCA expansions subject to the maintenance by the Companies of tracking accounts and the reporting of the tracking results, as described herein,;

3. ORDER the Fairpoint Companies to maintain tracking accounts for each Company from February 1, 2004 until January 31, 2005 for net revenue changes (from changes in access and local rates and billing units) resulting from additions to basic service calling areas (BSCAs) that will become effective on December 15, 2003; for that purpose the Companies shall hold constant in the tracking account the calculations in its filing of November 4, 2003 for access revenue loss and loss of revenue from the elimination of the per call rate described herein, and shall track the effects of the local revenue increases approved herein;

4. ORDER the Fairpoint Companies, on or before March 15, 2005, to report to the Commission the results of the tracking account described in paragraph 3 and changes in the number of lines; to provide a proposal for reimbursement of customers for any over-funding consistent with the requirements of Chapter 204, § 5(C) and this Order; and to propose rate adjustments for future rates if the rates approved herein result in over-collection;

5. ORDER the Fairpoint Companies to maintain a tracking account from the commencement of the incurrence of expenses until January 31, 2005 for changes in their revenue requirement (expenses and investment) resulting from of the implementation of the BSCA changes that will take place on December 15, 2003, and to report the results of that tracking on or before March 15, 2005;

6. ORDER the Fairpoint Companies, on or before March 15, 2005, to file billing units for all their services, including numbers of access lines and access minutes, for the most recently available period prior to the implementation of BSCA expansion and for each month during the tracking period.

Dated at Augusta, Maine, this 18th day of November, 2003.

BY ORDER OF THE COMMISSION

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Dennis L. Keschl
Administrative Director

COMMISSIONERS VOTING FOR: Welch
Diamond
Reishus

NOTICE OF RIGHTS TO REVIEW OR APPEAL

5 M.R.S.A. § 9061 requires the Public Utilities Commission to give each party to an adjudicatory proceeding written notice of the party's rights to review or appeal of its decision made at the conclusion of the adjudicatory proceeding. The methods of review or appeal of PUC decisions at the conclusion of an adjudicatory proceeding are as follows:

1. Reconsideration of the Commission's Order may be requested under Section 1004 of the Commission's Rules of Practice and Procedure (65-407 C.M.R.110) within 20 days of the date of the Order by filing a petition with the Commission stating the grounds upon which reconsideration is sought.

2. Appeal of a final decision of the Commission may be taken to the Law Court by filing, within **21 days** of the date of the Order, a Notice of Appeal with the Administrative Director of the Commission, pursuant to 35-A M.R.S.A. § 1320(1)-(4) and the Maine Rules of Appellate Procedure.

3. Additional court review of constitutional issues or issues involving the justness or reasonableness of rates may be had by the filing of an appeal with the Law Court, pursuant to 35-A M.R.S.A. § 1320(5).

Note: The attachment of this Notice to a document does not indicate the Commission's view that the particular document may be subject to review or appeal. Similarly, the failure of the Commission to attach a copy of this Notice to a document does not indicate the Commission's view that the document is not subject to review or appeal.